

United States Senate  
WASHINGTON, DC 20510

March 11, 2019

The Honorable Robert Wilkie  
Secretary of Veterans Affairs  
810 Vermont Avenue, NW  
Washington, DC 20420

Dear Mr. Secretary,

During a recent House Veterans' Affairs Committee hearing on the future of the Department of Veterans Affairs, you noted that you might ask Congress this summer to move up the timeline for the VA MISSION Act's Asset and Infrastructure Review Commission to conduct its work if the Department completes the long delayed market assessments in the next year.

Congress laid out a very prescriptive process for conducting the Asset and Infrastructure Review required under Title II of the law, very similar to the processes that have been utilized historically by the Department of Defense. The text of the Act was agreed to only after vigorous debate on each step of the process – and even then – there were many in Congress and the veterans' community who expressed numerous unresolved concerns about the form and process of the Review. As such, we are committed to seeing the required process executed as is and would not support a deviation from the process or a change in the timeline contemplated in the law – that includes the requirement that the Commission meet only in calendar years 2022 and 2023.

Mr. Secretary, the Asset and Infrastructure Review is too important to rush and the stakes are too high for veterans, and the largest integrated health care system in the nation, to contemplate a more hurried, and potentially less thorough, approach. In our view, the work of VA and the Commission must withstand public scrutiny – any perception that VA is cutting corners will prove fatal to the Review. That includes your suggestion of a possible modified timeline for action. Additionally, considering VHA has not had permanent leadership in more than two years and is currently attempting to redesign its community care programs and implement a new electronic health record systems, we are sure you would agree that VA must move deliberately to execute successfully so many foundational changes.

Wary of the intense public scrutiny this Asset and Infrastructure Review would face and recognizing the data-intensive process it rests upon, Congress was very deliberate when it laid out the process under which this review was to take place. For example, the law requires that VA consult with veterans service organizations prior to proposing criteria to be used by VA in assessing and making recommendations on facilities. Our expectation is that the consultation will be robust and be a true back-and-forth dialogue on the criteria that VA is considering. We note this out of concern for the lack of VSO engagement undertaken by the Department when

developing the Access Standards required by the VA MISSION Act. We do not want to see that mistake replicated. Congress intended that VSOs be consulted and that process cannot be merely a provision of information – the Department must seek information and advice from the VSOs in order for this requirement to be satisfied. Subsequent to that consultation, the Department must publish in the Federal Register and transmit to Congress the proposed criteria. The law stipulates that the public comment period be at least 90 days so that all veterans, stakeholders and concerned Americans have an opportunity to provide their views on the criteria. Only then can the Department publish its final criteria to be used when making recommendations on VA facilities.


Then, a year later, VA must transmit to Congress and the Commission, and publish in the Federal Register, a report detailing recommendations regarding VA facilities predicated on the criteria established above. In making such recommendations, VA must again consult with the VSOs. Further, the law requires that VA, in addition to assessing internal and market capacity, consider at least 11 different factors when making final recommendations regarding its infrastructure assets, including: the extent and timing of potential costs and savings for any particular asset action, including the number of years such costs or savings will be incurred; the provision of effective and efficient access to high-quality health care and services for veterans; the extent to which any action would impact other missions of the Department, including education, research, or emergency preparedness; local stakeholder inputs and any factors identified through public field hearings. The process required by Congress to make recommendations is exhaustive. Congress provided a full year to apply the established criteria to these factors because that is how long a thorough assessment should take. For example, the law requires public field hearings to be conducted and local stakeholder input to be gathered during that year. The expectation is that VA incorporate input received in those field hearings when making recommendations rather than merely “checking the box” that they have been conducted. And again, the market assessments you referenced during the hearing are just one of at least 11 different factors that must be evaluated before recommendation on assets can be made. We believe that all factors must be given earnest contemplation and that the market assessments cannot be the deciding factor on whether to expedite the asset and infrastructure review.

Only after this preliminary process can the Commissioners, appointed with the advice and consent of the Senate and representative of the Congressionally chartered VSOs, meet to review VA’s recommendations. That process includes public hearings in regions affected by VA’s recommendations. The Commission is then required to transmit to the President a report on its findings and conclusions based on a review and analysis of the recommendations made by the Secretary. The President then makes a decision on whether the recommendations will be approved or disapproved. Congress may either enact a joint resolution of disapproval to terminate the asset review process or let the recommendations move forward.

Although this process may seem overly-prescriptive and lengthy, it is the process that must occur in order for the final report to stand on its merits versus being clouded in a fog of impropriety in the process that led to its conclusions. As such, we hope that you will take seriously our view that the process and timeline remain untouched.


We look forward to your response and thank you for your attention to this matter.

Sincerely,

  
Jon Tester

  
Brian Schatz

  
Patty Murray

  
Patrick Leahy


  
Sherrod Brown

  
Jack Reed

  
Richard Blumenthal

  
Tammy Baldwin

  
Mazie K. Hirono

  
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